

## **REMARKS**

### **I. Status of Claims**

Claims 9-20 are pending in this application. Claim 20 is newly added and is a combination of previously presented claims 9, 10, and 12.

### **II. Allowable Subject Matter**

Claims 12-14 and 17-19 are objected to as allegedly being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **III. Pending Claims**

Claims 9-11, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,082,208 to Lane, Jr. (hereinafter "Lane") in view of USP 6,003,719 to Stewart III (hereinafter "Stewart").

The Office Action claims that the only feature not disclosed in Lane, which is newly cited, is that the wall means of the bottom element includes a part allowing the gas/vapor to flow between the inside and the outside of the container. However, the Applicant respectfully submits that Lane does not disclose "connection means for fastening the bottom element, the peripheral walls, and the cover element to each other, said connection means being included in the bottom element, in the intermediate elements, and in the cover element." In other words, elements 11, 12, and 13 are held together by connection means (See strap 14 in figures and column 2, lines 36-37 of the present application). These features of claim 9 are not addressed in the Office Action.

Stewart does not cure these deficiencies. Rather, Stewart discloses a container for preserving and transporting food (See column 4, lines 38-39) with a rigid upper element 40 and lower element 38 assembled in a sealed manner (See column 6, lines 37-38). In Stewart the connection means are hinges 28 and latches 30. The lower element 38 comprises a drain hole 26 with a plug 24 which can be removed to drain liquids (See column 5, lines 61-67).

The Office Action alleges that it would have been obvious to one having ordinary skill in

the art to modify Lane, in view of Stewart, to provide the side wall of the lower element 11 of the container in Lane with a hole and a plug such as taught by Stewart, thus obtaining the container of the present application.

The Applicant respectfully disagrees. The sole function of the hole 26 in Stewart is to drain liquids. The assembly of hole 26 and plug 24 cannot therefore be used to control the flow of gas and vapor between the inside and the outside of the container. In the present application, the container optimizes storage conditions through the regulation of pressure variations in the container (See page 5, line 27 and page 6, line 16) via a part which controls the flow of gas and vapor between the inside and the outside of the container. Consequently, one having ordinary skill in the art could not have obtained the container of the present application by combining Lane and Stewart.

The Stewart connection means (e.g., hinges 28 and latches 30) are included neither in upper element 40 nor in lower element 38. Therefore, one having ordinary skill in the art could not use the teachings of Stewart to modify the connection means of Lane to form the container as claimed. Further, in contrast to the present application, the upper and lower elements of Stewart cannot be considered as stackable because they are connected together through hinges 28. Consequently the container disclosed in document Stewart is quite different from the domain of containers such as the one disclosed in the present application. Further, for reasons stated herein above, the Applicant respectfully submits that there is no teaching and/or suggestion for one having ordinary skill in the art to combine Lane and Stewart as alleged.

For these reasons, claim 9, as well as its dependent claims and newly submitted independent claim 20, are patentable over the cited references.

#### **IV. Conclusion**

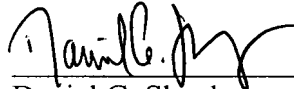
In light of the above discussion, Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

Dated: August 1, 2007

By:

  
\_\_\_\_\_  
Daniel G. Shanley  
Reg. No. 54,863

KENYON & KENYON LLP  
1500 K Street, N.W., Suite 700  
Washington, D.C. 20005  
Tel: (202) 220-4200  
Fax: (202) 220-4201